

Message Text

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12

ORIGIN SS-15

INFO OCT-01 EA-07 ISO-00 CIAE-00 NSAE-00 NSCE-00 SSO-00

USIE-00 INRE-00 PM-04 H-02 INR-07 L-03 NSC-05 PA-01

PRS-01 SP-02 OMB-01 /049 R

DRAFTED BY DOD/ISA:KBLEAKLEY:KA

APPROVED BY P:PCHABIB

L/EA:PNORTON (DRAFT)

PM/ISO:GCHURCHILL (DRAFT)

EA/PHL:JELAKE

EA/PHL:DPSULLIVAN

EA:RHMILLER

NSC: MR. QUINN

S/S: PSBRIDGES

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FM SECSTATE WASHDC

TO AMEMBASSY MANILA IMMEDIATE

INFO SECDEF

JCS

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C O N F I D E N T I A L STATE 193351

MANILA FOR USDEL, CINCPAC ALSO FOR POLAD

E.O. 11652:GDS

TAGS: MARR, RP

SUBJECT: PHILIPPINE BASE NEGOTIATIONS: TERM OF AGREEMENT

REFS: A. MANILA 9832 USDEL 77, B. MANILA 10023 USDEL 105

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C. STATE 181985

1. SUMMARY. UNDER ORIGINAL U.S. DRAFT TERM OF AGREEMENT PROVISION, PHILS COULD CANCEL BASES AGREEMENT ANY TIME THEY ARE PREPARED TO CANCEL MDT. PHILS APPARENTLY WISH TO INSERT FIVE YEAR LANGUAGE FOR POLITICAL REASONS. US DEL PROPOSED COMPROMISE BETWEEN OUR ORIGINAL AND PHIL DRAFTS GIVES PHILS NOTHING NEW BUT IS TROUBLING TO US BECAUSE IT IS CONFUSING AND INVITES RENEGOTIATION OF ENTIRE AGREEMENT IN FIVE YEARS. WE PREFER RETAINING ORIGINAL U.S. POSITION BUT ARE WILLING TO ACCEPT (AFTER PHILS CLARIFY THEIR POSITION) A PROVISION IN WHICH FIVE YEAR REFERENCE IS INSERTED AS MINIMUM TIME PERIOD. END SUMMARY

2. WE UNDERSTAND RATIONALE OUTLINED REF A FOR INCLUSION OF REFERENCE TO FIVE YEAR PERIODS IN ARTICLE XXII AND ANTICIPATE INCLUSION OF SOME REFERENCE TO FIVE YEAR PERIOD IN THIS ARTICLE. PHILS SHOULD BE ADVISED, THOUGH, THAT ANY REFERENCE TO A PERIOD AS SHORT AS FIVE YEARS WILL ENGENDER CONGRESSIONAL CRITICISM. U.S. HAS VERY LITTLE FLEXIBILITY IN THIS AREA AND WE ARE CONCERNED ABOUT TABLING ANYTHING CLOSE TO AN ULTIMATE FALLBACK POSITION IN ABSENCE OF CLEAR STATEMENT OF PHIL POSITION AND CLARIFICATION OF RELATIONSHIP TO PHILIPPINE ARTICLE XIX.

3. OUR DIFFICULTY WITH PROPOSED REVISION OF PARA 2 ARTICLE XXII OF U.S. DRAFT AS CONTAINED IN PARA 3, REF A, IS THE DANGER OF MISINTERPRETATION TO OUR DISADVANTAGE. FOR EXAMPLE, IF THE ONE YEAR TERMINATION PROVISION OF MDT IS TO APPLY AT ANY POINT DURING FIVE YEAR TERM THE INCLUSION OF REFERENCE TO FIVE YEAR PERIOD IS ILLUSORY. ANOTHER EFFECT OF REFERENCE TO FIVE YEAR PERIODS IS LIKELY TO BE THAT COMPLETE RENEGOTIATION OF AGREEMENT, RATHER THAN JUST OF QUID, AFTER EACH FIVE YEAR PERIOD WOULD NOT ONLY BE POSSIBLE BUT WOULD ALSO APPEAR TO BE ENCOURAGED. SECOND SENTENCE LIKewise SEEMS TO INVITE FREQUENT AMENDMENT TO AGREEMENT. WHILE MOST OF THE AMBIGUITIES CAN BE DRAFTED AROUND, THIS RESULTS IN A SOMEWHAT CONVOLUTED TEXT; AND FOR REASONS SET FORTH ABOVE, IF A FIVE YEAR TERM IS STATED, WE BELIEVE THIS SHOULD BE A MINIMUM TIME PERIOD.

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4. WASHINGTON AGENCIES CAN APPROVE FOLLOWING REFORMULATION OF PARA 2, ARTICLE XXII: "THIS AGREEMENT AND ITS ANNEXES SHALL REMAIN IN FORCE FOR FIVE YEARS FROM THE DATE OF ITS ENTRY INTO FORCE. THEREAFTER, THIS AGREEMENT AND ITS ANNEXES SHALL CONTINUE IN FORCE SO LONG AS THE MUTUAL DEFENSE TREATY OF 1951 REMAINS IN FORCE."

5. WE WOULD APPRECIATE USDEL'S COMMENTS ON THIS PROPOSED
REFORMULATION AND HAVE NO OBJECTION TO YOUR DISCUSSING IT
WITH THE PHILIPPINE DELEGATION IF YOU DEEM IT DESIRABLE.
HABIB

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MILITARY BASES, NEGOTIATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 04 AUG 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: izenbei0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE193351
Document Source: CORE
Document Unique ID: 00
Drafter: KBLEAKLEY:KA
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760300-1220
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760886/aaaacxst.tel
Line Count: 119
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN SS
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 76 MANILA 9832, 76 MANILA 10023
Review Action: RELEASED, APPROVED
Review Authority: izenbei0
Review Comment: n/a
Review Content Flags:
Review Date: 03 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <03 JUN 2004 by CunninFX>; APPROVED <29 SEP 2004 by izenbei0>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: PHILIPPINE BASE NEGOTIATIONS: TERM OF AGREEMENT
TAGS: MARR, RP, US
To: MANILA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006